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State v. Cain Appellant's Brief Dckt. 45061

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 45061
)	
v.)	CANYON COUNTY NO. CR 2014-21124
)	
ROBERT WILLIAM CAIN,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Robert Cain appeals from the district court's order revoking his probation. He contends that, considering his initial success on probation and the way in which his alcoholism and mental health problems contributed to his violations, the district court abused its discretion by not continuing him on probation.

Statement of Facts and Course of Proceedings

In 2014, the State charged Mr. Cain with domestic battery in the presence of children and attempted strangulation. (R., p.19.) Mr. Cain pled guilty to domestic battery, and the State dismissed the enhancement for that charge as well as the attempted strangulation charge.

(R., pp.25–32, 35–41.) The court sentenced Mr. Cain to a unified term of ten years, with four years fixed, and retained jurisdiction. (R., pp.52–54.) In October 2015, the court placed him on probation. (R., pp.58–65.)

In January 2017, the State alleged that Mr. Cain violated his probation by moving without permission, not reporting to his probation officer, not keeping a job, not going to treatment, and drinking alcohol. (R., pp.69–73.) Mr. Cain admitted to violating his probation by moving without permission, not going to treatment, and drinking alcohol, and the State dismissed the remaining allegations. (3/1/17 Tr., p.10, L.21–p.15, L.8.)

At the disposition hearing, the State recommended that the court revoke Mr. Cain's probation. (3/4/17 Tr., p.2, L.22–p.4, L.19.) Defense counsel acknowledged that Mr. Cain had failed to abide by his probation agreement, but also pointed out that his violations were relatively minor and he did not commit any new crimes. (3/4/17 Tr., p.4, L.22–p.6, L.18.) He did well initially, and his violations appeared to be related to his struggles with alcoholism. (3/4/17 Tr., p.4, L.22–p.6, L.18.) Further, Mr. Cain had a plan in place to help him succeed on probation—he wanted to move to Gem county where he has family support and a job, and he intends to work on his mental health, which he believe is the root cause of his addictions. (3/4/17 Tr., p.6, Ls.4–8, p.6, L.19–p.7, L.21.) Defense counsel therefore suggested that the court continue Mr. Cain on probation. (3/4/17 Tr., p.6, Ls.9–18, p.7, L.2–p.8, L.9.) Finally, Mr. Cain told the court;

I believe Mr. Gatewood summed it up pretty well, Your Honor.

It was the mental health aspect that kind of brought my downfall this time. And that was something that I brought up with Mr. Gatewood right out of the gate. That's one of the first things I have to address. You know, beyond that, I do have the family support network in Gem County as opposed to in Canyon County. In Canyon County I was basically left to myself, you know, for lack of a better word.

I just beg for one more chance is about the only thing I have to say, Your Honor. You know, I understand I made a mistake. You know, I did. I messed up. . . .

(3/4/17 Tr., p.8, Ls.12–23.)

The court revisited the facts of the underlying crime and probation violations, then revoked Mr. Cain’s probation and imposed his underlying sentence. (3/4/17 Tr., p.8, L.25–p.15, L.20; R., pp.84–85.) Mr. Cain timely appealed. (R., pp.91–93.)

ISSUE

Did the district court abuse its discretion when it revoked Mr. Cain’s probation?

ARGUMENT

The District Court Abused Its Discretion When It Revoked Mr. Cain’s Probation

Whether willfully violating a condition of probation justifies revoking a defendant’s probation “is a question addressed to the judge’s sound discretion.” *State v. Adams*, 115 Idaho 1053, 1054 (Ct. App. 1989). However, “a judge cannot revoke probation arbitrarily.” *Id.* at 1055. It may revoke probation “if the judge reasonably concludes from the defendant’s conduct that probation is not achieving its rehabilitative purpose.” *Id.*

The appellate court “defers to the trial court’s decision” unless it abused its discretion. *Id.* This Court must consider the entire record, including the defendant’s conduct before and during probation, *State v. Chapman*, 111 Idaho 149, 153–54 (1986), and must take into consideration the four goals of sentencing: the protection of society, deterrence, rehabilitation, and retribution, *State v. Pierce*, 150 Idaho 1, 5–6 (2010).

In light of Mr. Cain’s initial success on probation, probation was achieving its rehabilitative purpose. This is especially true considering that Mr. Cain’s violations were tied to

his underlying mental health concerns and addiction. The district court thus abused its discretion by revoking his probation.

Mr. Cain first started drinking when he was twelve, after which alcohol took a grip on his life. (PSI, pp.18–19.) He was drinking when he committed the underlying crime in this case (PSI, p.4), and he violated his probation in part because he started drinking again (3/1/17 Tr., p.10, L.21–p.15, L.8). He has been diagnosed with alcohol dependence with physiological symptoms in a controlled environment, and has struggled to gain his sobriety since 2007. (PSI, p.19.)

Mr. Cain believes that his poor mental health is the root of his alcoholism. (3/4/17 Tr., p.8, Ls.12–23.) He has been diagnosed with generalized anxiety disorder and major depressive disorder (PSI, pp.19, 55), and has considered taking his own life (PSI, p.17). Mr. Cain had an extremely difficult childhood, marked by pervasive physical abuse and neglect at the hands of his mother and numerous alcoholic step-fathers. (PSI, pp.13–14.) That upbringing surely contributed to his mental health problems and, in turn, his alcoholism. (*Id.*)

Mr. Cain's probation violations tie directly into his underlying mental health problems and his alcoholism. (*See generally* 3/1/17 Tr., p.10, L.21–p.15, L.8; 3/4/17 Tr., p.4, L.22–p.6, L.18.) Although Mr. Cain takes responsibility for his violations (3/4/17 Tr., p.8, Ls.12–23), he also contends that he did well initially, setbacks are to be expected when alcoholism is at play, and thus probation was achieving its rehabilitative purpose. With the support of his family in Gem County and mental health counseling (3/4/17 Tr., p.6, Ls.4–8, p.6, L.19–p.7, L.21), Mr. Cain believes he will be able to make improvements in both areas and be successful on probation. The district court therefore abused its discretion by revoking his probation.

CONCLUSION

Mr. Cain respectfully requests that this Court order that the district court place him on probation.

DATED this 16th day of August, 2017.

_____/s/_____
MAYA P. WALDRON
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 16th day of August, 2017, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

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_____/s/_____
EVAN A. SMITH
Administrative Assistant

MPW/eas